

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ANSON CHI,)
)
)
Petitioner,)
)
)
v.) **Case No. 1:20-cv-49**
)
)
WARDEN J. HUTCHINSON,¹)
)
)
Respondent.)

MEMORANDUM ORDER

The petition for a writ of habeas corpus in this case was received by the Clerk of Court on March 3, 2020 and was referred to United States Magistrate Judge Richard A. Lanzillo for report and recommendation (“R&R”) in accordance with the Magistrate Judges Act, 28 U.S.C. §636(b)(1), Federal Rule of Civil Procedure 72(b), and the Local Civil Rule 72(D). ECF No. 1. Petitioner Anson Chi is a federal inmate currently housed at the Federal Correctional Institution in McKean. His petition, filed under 28 U.S.C. §2241, was formally entered on the record on April 3, 2020 and amended on April 29, 2020. ECF Nos. 7, 16. Respondent answered the petition on July 7, 2020, ECF Nos. 27 and 28, and Petitioner filed a reply on July 28, 2020. ECF No. 32.

On July 20, 2022, Magistrate Judge Lanzillo issued an R&R recommending that Petitioner’s claims be dismissed for lack of jurisdiction. *See* ECF No. 36. Judge Lanzillo acknowledged the various claims raised in the instant §2241 petition and noted that they mirror the claims Petitioner raised in a §2255 motion that was decided adversely by the U.S District Court for the Eastern District of Texas (Petitioner’s sentencing court). In recommending

¹ By order of court entered on July 20, 2022, ECF No. 37, the current Warden of FCI-McKean, “J. Hutchinson,” was substituted as the relevant Respondent in lieu of the former Warden, “B.Trate” *See* Fed. R. Civ. P. 25(d).

dismissal of the instant §2241 petition, Judge Lanzillo reasoned that Petitioner is attacking the *validity of his conviction* rather than the *execution of his sentence* and, moreover, he has failed to show that relief under §2255 would be “ineffective or inadequate to test the legality of his detention” as set forth in in §2255(e) and as discussed in *In re Dorsainvil*, 119 F.3d 245 (3d Cir. 1997), and *Bruce v. Warden Lewisburg USP*, 868 F.3d 170, 178 (3d Cir. 2017). *Id.* Judge Lanzillo therefore concluded that Petitioner cannot pursue habeas relief under §2241.

Petitioner filed objections to the Report and Recommendation on August 8, 2022. ECF No. 39. At bottom, Petitioner contends that Magistrate Judge Lanzillo misstated and distorted the grounds asserted in the instant §2241 petition as well as the grounds that Petitioner previously asserted in his motion for relief under 28 U.S.C. §2255. Petitioner accuses Judge Lanzillo of conspiring with the U.S. District Judge who ruled adversely on his §2255 motion, theorizing that the alleged conspiracy is intended to “illegally, intentionally, and wrongfully stop [Petitioner] from getting the relief he’s entitled to” and thereby frustrate Petitioner from “revers[ing] his unconstitutional and wrongful conviction and sentence.” ECF No. 39 at 4. Petitioner also appears to believe that he either is or would have been entitled to habeas relief based on the sentencing court’s delay in adjudicating his §2255 motion. He faults Judge Lanzillo’s decision to stay proceedings in this case pending the sentencing court’s ruling on the §2255 motion. He suggests that, instead of delaying the issuance of the pending R&R, Judge Lanzillo should have proceeded to consider the grounds for relief that Petitioner raised in both his §2255 and §2241 motions.

The Court has fully considered Petitioner’s arguments but finds that they lack merit. After *de novo* review of the petition and documents in the case, together with the Report and Recommendation and Petitioner’s arguments thereto, the following order is entered:

NOW, this 25th day of August, 2022, IT IS ORDERED that the within petition for writ of habeas corpus shall be, and hereby is, DISMISSED for lack of jurisdiction.

IT IS FURTHER ORDERED that the Report and Recommendation of Magistrate Judge Lanzillo, issued on July 20, 2022, ECF No. [36], is adopted as the opinion of this Court.

As there are no further matters pending before the Court relative to the instant petition, the Clerk is directed to mark this case "CLOSED."



SUSAN PARADISE BAXTER
United States District Judge

cm: Anson Chi
44588-177
McKean Federal Correctional Institution
Inmate Mail/Parcels
P.O. Box 8000
Bradford, PA 16701
(Via U.S Mail)

Jacqueline Brown, AUSA
The Honorable Richard A. Lanzillo
(via CM/ECF)